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#31

Docket No.: M4065.0165/P165  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Garry A. Mercaldi, et al.

Application No.: 09/285,773

Group Art Unit: 1765

Filed: April 5, 1999

Examiner: L. Umez-Eronini

For: METHOD FOR ETCHING DOPED  
POLYSILICON WITH HIGH  
SELECTIVITY TO UNDOPED  
POLYSILICON

**RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT AND TO  
ELECTION/RESTRICTION REQUIREMENT**

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

In response to the Notice of Non-Responsive Amendment mailed October 17, 2002 (Paper No. 28) and of the election/restriction requirement set forth in the Office Action mailed July 16, 2002 (Paper No. 26), Applicants provisionally elect species D<sub>1</sub> (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41 and 83) (isopropanol required) of Group D for continued examination.

The election is made with traverse.

First, the present application was given a restriction requirement more than three years ago, in an Office Action mailed May 1, 2000, which required election between claims 1-41, drawn to a product, and claim 42-81, drawn to a method. In a response to the first restriction requirement dated May 25, 2000, Applicants provisionally elected claims 1-41, for continued examination without traverse. All elected claims 1-41 were then examined

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on the merits and a substantive Office Action was mailed on June 7, 2000, rejecting all claims 1-41. Applicants responded to the June 7, 2000 Office Action and amended claim 1, canceled claims 8, 12 and 19-21, and added new claims 82-86 in an Amendment dated August 10, 2000. The Examiner then issued a second substantive Office Action pertaining to claims 1-7, 9-11, 13-18, 22-41 and 82-86 on October 31, 2000 and Applicants responded on January 23, 2001 and amended claims 1, 4, 25 and 82-86.

A Notice of Appeal was mailed on February 1, 2001 and Applicants filed a Continued Prosecution Application on February 23, 2001. A fourth substantive Office Action was mailed on March 7, 2001 rejecting claims 1-7, 9-11, 13-18, 22-41 and 82-86 and Applicants responded on May 23, 2001 and canceled claims 30-32, 36-38 and 84-86, amended claims 1, 22 and 82-83 and added new claims 87-93. A fifth substantive Office Action was then mailed on July 24, 2001 finally rejecting claims 1-7, 9-11, 13-18, 22-29, 33-35, 39-41, 82 and 83 and allowing claims 87-93. In response to the July 24, 2001 Office Action, Applicants canceled claims 10, 11, 16-18 and 87, and amended claims 1 and 9 in an Amendment dated October 18, 2001. Another Advisory Action was mailed on October 30, 2001 and Applicants responded by filing another Continued Prosecution Application (CPA) on November 26, 2001. A seventh substantive Office Action was issued on December 13, 2001 rejecting all pending claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88. Applicants responded in an Amendment dated March 11, 2002 and amended claims 1, 9 and 22 and canceled claim 88.

Now, after more than three years of substantive prosecution of elected claims 1-41, Applicants have been required unexpectedly and unfairly to further elect between Group A (claims 1, 9, 22 and 89-93), Group B (claims 1, 22, 82, 83 and 89-93), Group C (claims 1, 2, 6, 7, 9, 13-15, 22-27, 33-35, 83 and 89-93) and Group D (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41, 83 and 89-93), claims that have been already substantially examined together repeatedly.

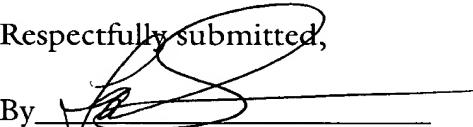
Second, MPEP § 803 provides that “[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on its

merits, even though it includes claims to independent or distinct inventions." As acknowledged by virtue of Applicants receiving numerous Office Actions mailed over a period of now more than three years, claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 all relate to a non-aqueous etching mixtures, thereby defining closely related subject matter.

Further, the previously elected claims have already been substantively examined at least five times by the same Examiner. Accordingly, this demonstrates that the entire group of claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 can be examined together without serious burden. Consequently, the restriction/election requirement should be withdrawn and all claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 should be examined.

Dated: June 4, 2003

Respectfully submitted,

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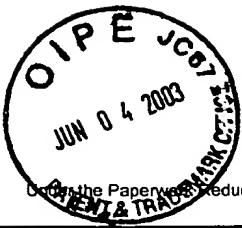
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Attorneys for Applicants

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## FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1,300.00)

Complete if Known	
Application Number	09/285,773-Conf. #4121
Filing Date	April 5, 1999
First Named Inventor	Garry A. Mercaldi
Examiner Name	L. Umez-Eronini
Art Unit	1765
Attorney Docket No.	M4065.0165/P165

### METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  Other  None  
 Deposit Account

Deposit Account Number 04-1073

Deposit Account Name Dickstein Shapiro Morin & Oshinsky LLP

The Director is hereby authorized to: (check all that apply)

- Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

### FEE CALCULATION

#### 1. BASIC FILING FEE

##### Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1) (\$ 0.00)					

#### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	-** =	Extra Claims	x	Fee from below	=	Fee Paid
Independent Claims	-** =		x		=	
Multiple Dependent	-** =		x		=	

##### Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$ 0.00)				

\*\*or number previously paid, if greater; For Reissues, see above

### 3. ADDITIONAL FEES

#### Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	1,300.00
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)					

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 1,300.00)

### SUBMITTED BY

Complete (if applicable)

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Signature				Date	June 3, 2003